

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
ROBERT H. KINZEL, JR. : ORDER OF REVOCATION
_____ : DOCKET NO: 463-02/98-168

At its meeting of February 26, 1998, the State Board of Examiners reviewed information received from the Division of Criminal Justice indicating that on March 10, 1997, Robert H. Kinzel, Jr. had pled guilty to charges of second degree manslaughter and leaving the scene of an accident. On June 20, 1997, Kinzel was sentenced to seven years' confinement in a New Jersey State Prison, 180 days confinement in the Burlington County Jail and \$1000 in fines. Kinzel is currently the holder of School Administrator, Principal/Supervisor, Teacher of General Business Studies, Teacher of Health and Physical Education, Secondary School Teacher of General Science, Teacher of Social Studies and School Business Administrator certificates. Upon review of the above information, at its February 1998 meeting, the State Board of Examiners voted to issue an Order to Show Cause to Respondent.

The Board sent Kinzel the Order to Show Cause by regular and certified mail on March 25, 1998. The Order provided that if Respondent desired to file an Answer to the Order such Answer must be filed within 20 days. On April 9, 1998, his attorney filed an Answer on Kinzel's behalf. Although he did not admit to his crime in his Answer, Kinzel did state that the Judgment of Conviction spoke for itself. (Answer, ¶¶ 3-4). Kinzel also claimed that he had been an exemplary teacher for over 23 years, that the accident was non-school related and that since the offense he had been a model citizen. (Answer, Affirmative Defenses, ¶¶ 2, 7).

Thereafter, pursuant to N.J.A.C. 6:11-3.6(a)1, on April 28, 1998, the Board of Examiners sent Kinzel a hearing notice by regular and certified mail. The notice explained that since it

appeared no material facts were in dispute, respondent was offered an opportunity to submit written arguments on the issue of whether the conduct addressed in the Order to Show Cause constituted conduct unbecoming a certificate holder. It also explained that upon review of the charges against him and the legal arguments tendered in his defense, the State Board of Examiners would determine if Kinzel's offense warranted action against his certificates. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. The Board granted Kinzel an extension of time in which to respond and on September 14, 1998, Kinzel submitted his reply.

In that response, Kinzel told the Board of Examiners that before the Board determined the appropriate penalty, it need consider not only his conduct but also his state of mind at the time of the incident. (Hearing Response, pp. 4-10). Kinzel claimed that he had been dealing with severe stress in his life, including a period of unemployment, marital problems with his wife (which turned out to be caused by her previously undiagnosed Alzheimer's disease), his daughter's handicapping condition and his son's entry into teenagehood. (Certification of Robert H. Kinzel, Jr., ¶ 6). He had begun abusing alcohol to cope with these various pressures. (Certification of Robert H. Kinzel, Jr., ¶ 7).

Kinzel also argued that his conduct the night of the accident was a one-time lapse in judgment that had nothing to do with his unblemished employment record. (Certification of Robert H. Kinzel, Jr., ¶ 34). He claimed that his personal problems and his drinking had never interfered with his professional duties. Kinzel also submitted voluminous evidence of his rehabilitation since the accident, including numerous letters of support and recommendation from friends, colleagues and treatment providers. Kinzel further argued that his continued

employment would not adversely affect the East Orange school system, where he had been employed. (Hearing Response, pp. 13-14).

The threshold issue before the State Board of Examiners in this matter, therefore, is to determine whether Kinzel's guilty plea to second degree manslaughter and leaving the scene of an accident constitutes conduct unbecoming a certificate holder. At its meeting of November 5, 1998, the State Board of Examiners reviewed the charges and papers filed by respondent in response to the Order to Show Cause. After review of Kinzel's submissions, the Board of Examiners determined that no material facts related to respondent's offense were in dispute since Kinzel admitted that he had pled guilty to the offenses charged and had been sentenced accordingly. Thus, the Board of Examiners determined that summary decision was appropriate in this matter. N.J.A.C. 6:11-3.6(a)1.

The State Board of Examiners must now determine whether Kinzel's offense as set forth in the Order to Show Cause, provides just cause to act against his certificates pursuant to N.J.A.C. 6:11-3.6(a)1. We find that it does.

The State Board of Examiners may revoke or suspend the certification of any certificate holder on the basis of demonstrated inefficiency, incapacity, conduct unbecoming a teacher or other just cause. N.J.A.C. 6:11-3.4. "Teachers... are professional employees to whom the people have entrusted the care and custody of ... school children. This heavy duty requires a degree of self-restraint and controlled behavior rarely requisite to other types of employment." Tenure of Sammons, 1972 S.L.D. 302, 321. Kinzel's acts of driving while intoxicated, consequently striking a child and leaving the scene of an accident are inexcusable for any individual, teacher or not. While Kinzel may have been an exceptional teacher in the classroom, he has not demonstrated like behavior outside that arena.

Kinzel argues that he should retain his certificate since the incident occurred off school grounds. It is well established that the State Board of Examiners has the right to revoke a certificate where the teacher was involved in criminal activities, even if the activities were unrelated to the classroom. See Cox v. State Board of Examiners, (App. Div. Docket No. A-3527-81T3) (November 18, 1983); State Board of Examiners v. Krupp, 3 N.J.A.R. 285 (1981).

Moreover, the Commissioner has long held that teachers serve as role models for their students. Therefore, a teacher's whole life is subject to scrutiny, not just his actions within the schoolhouse doors:

[R]espondent's argument that, because the occurrence happened in the evening away from school premises, both the Board and the Commissioner have no authority to act, is without merit. Individuals who must comport themselves as models for young minds to emulate choose the teaching profession. This heavy responsibility does not begin at 8:00 a.m. and conclude at 4:00 p.m., Monday through Friday, only when school is in session. Being a teacher requires, *inter alia*, a consistently intense dedication to civility and respect for people as human beings. The Commissioner has, on past occasions, determined tenure charges arising from incidents which happened in the evening both on and off school property. See, In the Matter of the Tenure Hearing of Thomas Appleby, School District of Vineland, Cumberland County, 1965 S.L.D. 159, *aff'd* State Board of Education 1970 S.L.D. 448; In the Matter of the Tenure Hearing of John H. Stokes, School District of the City of Rahway, Union County, 1971 S.L.D. 623.

In the Matter of the Tenure Hearing of Robert H. Beam, 1973 S.L.D. 157, 163. Kinzel therefore cannot exclude his "out-of-school" behavior from this tribunal's examination.

Furthermore, unfitness to hold a position in a school system may be shown by one incident, if sufficiently flagrant. Redcay v. State Board of Education, 130 N.J.L. 369, 371 (S. Ct. 1943), *aff'd*. 131 N.J.L. 326 (E & A 1944). In this instance, Kinzel's long-standing drinking problem caused an unfortunate and irrevocable accident. While this incident was extreme and

the only one where Kinzel was “caught,” it does not negate the fact that his alcohol abuse was ongoing and untreated.

Notwithstanding Kinzel’s contentions of rehabilitation, this is not the proper context for such considerations. The purpose of this proceeding is “to permit the individual certificate holder to demonstrate circumstances or facts to counter the charges set forth in the Order to Show Cause, not to afford an opportunity to show rehabilitation.” See, In the Matter of the Revocation of the Teaching Certificate of Gloria Jackson by the State Board of Examiners, 96 N.J.A.R. 2D (EDE) 1, 16 aff’d App. Div. Dkt. No. A-1246-96T5 (September 9, 1997) citing In the Matter of the Revocation of the Teaching Certificate of James Noll, State Bd. of Examiners decision (February 7, 1990). Thus, the fact that Kinzel has remained sober since the accident, while a step in the right direction, has no bearing on the decision the Board of Examiners must make with regard to his certification.

Accordingly, it is therefore ORDERED that Robert H. Kinzel Jr.’s School Administrator, Principal/Supervisor, Teacher of General Business Studies, Teacher of Health and Physical Education, Secondary School Teacher of General Science, Teacher of Social Studies and School Business Administrator certificates be revoked on this 5th day of November, 1998. It is further ORDERED that Robert H. Kinzel, Jr. return his certificates to the Secretary of the State Board of Examiners, Office of Licensing, CN 500, Trenton, NJ 08625-0500 within fifteen (15) days of receipt of this decision.

Secretary
State Board of Examiners

Date of Mailing: January 7, 1998

Appeals may be made to the State Board of Education pursuant to the provisions of N.J.S.A.
18A:6-28.

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